

AMENDED IN ASSEMBLY MAY 27, 2016

AMENDED IN ASSEMBLY APRIL 25, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2687

Introduced by Assembly Members Achadjian, Low, and Chang

February 19, 2016

An act to amend Sections 23152 and 23153 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2687, as amended, Achadjian. Vehicles: passenger for hire: driving under the influence.

Existing law makes it unlawful for a person who is under the influence of any alcoholic beverage or drug to drive a vehicle. Existing law makes it unlawful for a person who has 0.04 percent or more, by weight, of alcohol in his or her blood to drive a commercial motor vehicle, as defined. Existing law also makes it unlawful for a person who has 0.04 percent or more, by weight, of alcohol in his or her blood to drive a commercial motor vehicle and concurrently do any act forbidden by law or neglect any duty imposed by law that proximately causes bodily injury to another person other than the driver.

This bill would make it ~~unlawful~~ *unlawful, commencing July 1, 2018*, for a person who has 0.04 percent or more, by weight, of alcohol in his or her blood to drive a motor vehicle when a passenger for hire, as defined, is a passenger in the vehicle at the time of the offense. The bill would also make it ~~unlawful~~ *unlawful, commencing July 1, 2018*, for a person who has 0.04 percent or more, by weight, of alcohol in his or her blood to drive a motor vehicle, as specified, and concurrently do

any act or neglect any duty that proximately causes bodily injury to another person other than the driver. Because this bill would expand the application of a crime to more people, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 23152 of the Vehicle Code is amended
2 to read:

3 23152. (a) It is unlawful for a person who is under the
4 influence of any alcoholic beverage to drive a vehicle.

5 (b) It is unlawful for a person who has 0.08 percent or more, by
6 weight, of alcohol in his or her blood to drive a vehicle.

7 For purposes of this article and Section 34501.16, percent, by
8 weight, of alcohol in a person's blood is based upon grams of
9 alcohol per 100 milliliters of blood or grams of alcohol per 210
10 liters of breath.

11 In any prosecution under this subdivision, it is a rebuttable
12 presumption that the person had 0.08 percent or more, by weight,
13 of alcohol in his or her blood at the time of driving the vehicle if
14 the person had 0.08 percent or more, by weight, of alcohol in his
15 or her blood at the time of the performance of a chemical test
16 within three hours after the driving.

17 (c) It is unlawful for a person who is addicted to the use of any
18 drug to drive a vehicle. This subdivision shall not apply to a person
19 who is participating in a narcotic treatment program approved
20 pursuant to Article 3 (commencing with Section 11875) of Chapter
21 1 of Part 3 of Division 10.5 of the Health and Safety Code.

22 (d) ~~(4) It is unlawful for a person who has 0.04 percent or more,~~
23 ~~by weight, of alcohol in his or her blood to drive a commercial~~
24 ~~motor vehicle, as defined in Section 15210, or to drive a motor~~
25 ~~vehicle when a passenger for hire is a passenger in the vehicle at~~
26 ~~the time of the offense. A passenger for hire means a passenger~~

1 ~~for whom consideration is contributed or expected as a condition~~
2 ~~of carriage in the vehicle, whether directly or indirectly flowing~~
3 ~~to the owner, operator, agent, or any other person having an interest~~
4 ~~in the vehicle. Section 15210. In a prosecution under this~~
5 ~~subdivision, it is a rebuttable presumption that the person had~~
6 ~~0.04 percent or more, by weight, of alcohol in his or her blood at~~
7 ~~the time of driving the vehicle if the person had 0.04 percent or~~
8 ~~more, by weight, of alcohol in his or her blood at the time of the~~
9 ~~performance of a chemical test within three hours after the driving.~~

10 ~~(2) In any prosecution under this subdivision, it is a rebuttable~~
11 ~~presumption that the person had 0.04 percent or more, by weight,~~
12 ~~of alcohol in his or her blood at the time of driving the vehicle if~~
13 ~~the person had 0.04 percent or more, by weight, of alcohol in his~~
14 ~~or her blood at the time of the performance of a chemical test~~
15 ~~within three hours after the driving.~~

16 *(e) Commencing July 1, 2018, it shall be unlawful for a person*
17 *who has 0.04 percent or more, by weight, of alcohol in his or her*
18 *blood to drive a motor vehicle when a passenger for hire is a*
19 *passenger in the vehicle at the time of the offense. For purposes*
20 *of this subdivision, "passenger for hire" means a passenger for*
21 *whom consideration is contributed or expected as a condition of*
22 *carriage in the vehicle, whether directly or indirectly flowing to*
23 *the owner, operator, agent, or any other person having an interest*
24 *in the vehicle. In a prosecution under this subdivision, it is a*
25 *rebuttable presumption that the person had 0.04 percent or more,*
26 *by weight, of alcohol in his or her blood at the time of driving the*
27 *vehicle if the person had 0.04 percent or more, by weight, of*
28 *alcohol in his or her blood at the time of the performance of a*
29 *chemical test within three hours after the driving.*

30 ~~(e)~~

31 *(f) It is unlawful for a person who is under the influence of any*
32 *drug to drive a vehicle.*

33 ~~(f)~~

34 *(g) It is unlawful for a person who is under the combined*
35 *influence of any alcoholic beverage and drug to drive a vehicle.*

36 SEC. 2. Section 23153 of the Vehicle Code is amended to read:

37 23153. (a) It is unlawful for a person, while under the influence
38 of any alcoholic beverage, to drive a vehicle and concurrently do
39 any act forbidden by law, or neglect any duty imposed by law in

1 driving the vehicle, which act or neglect proximately causes bodily
2 injury to any person other than the driver.

3 (b) It is unlawful for a person, while having 0.08 percent or
4 more, by weight, of alcohol in his or her blood to drive a vehicle
5 and concurrently do any act forbidden by law, or neglect any duty
6 imposed by law in driving the vehicle, which act or neglect
7 proximately causes bodily injury to any person other than the
8 driver.

9 In any prosecution under this subdivision, it is a rebuttable
10 presumption that the person had 0.08 percent or more, by weight,
11 of alcohol in his or her blood at the time of driving the vehicle if
12 the person had 0.08 percent or more, by weight, of alcohol in his
13 or her blood at the time of the performance of a chemical test
14 within three hours after driving.

15 (c) In proving the person neglected any duty imposed by law
16 in driving the vehicle, it is not necessary to prove that any specific
17 section of this code was violated.

18 (d) ~~(4) It is unlawful for a person, while having 0.04 percent~~
19 ~~or more, by weight, of alcohol in his or her blood to drive a~~
20 ~~commercial motor vehicle, as defined in Section 15210, or to drive~~
21 ~~a motor vehicle when a passenger for hire is a passenger in the~~
22 ~~vehicle at the time of the offense, Section 15210 and concurrently~~
23 ~~to do any act forbidden by law or neglect any duty imposed by~~
24 ~~law in driving the vehicle, which act or neglect proximately causes~~
25 ~~bodily injury to any person other than the driver. A passenger for~~
26 ~~hire means a passenger for whom consideration is contributed or~~
27 ~~expected as a condition of carriage in the vehicle, whether directly~~
28 ~~or indirectly flowing to the owner, operator, agent, or any other~~
29 ~~person having an interest in the vehicle. In a prosecution under~~
30 ~~this subdivision, it is a rebuttable presumption that the person had~~
31 ~~0.04 percent or more, by weight, of alcohol in his or her blood at~~
32 ~~the time of driving the vehicle if the person had 0.04 percent or~~
33 ~~more, by weight, of alcohol in his or her blood at the time of~~
34 ~~performance of a chemical test within three hours after driving.~~

35 (2) In any prosecution under this subdivision, it is a rebuttable
36 presumption that the person had 0.04 percent or more, by weight,
37 of alcohol in his or her blood at the time of driving the vehicle if
38 the person had 0.04 percent or more, by weight, of alcohol in his
39 or her blood at the time of performance of a chemical test within
40 three hours after driving.

1 (e) Commencing July 1, 2018, it shall be unlawful for a person,
2 while having 0.04 percent or more, by weight, of alcohol in his or
3 her blood to drive a motor vehicle when a passenger for hire is a
4 passenger in the vehicle at the time of the offense, and concurrently
5 to do any act forbidden by law or neglect any duty imposed by law
6 in driving the vehicle, which act or neglect proximately causes
7 bodily injury to any person other than the driver. For purposes of
8 this subdivision, “passenger for hire” means a passenger for whom
9 consideration is contributed or expected as a condition of carriage
10 in the vehicle, whether directly or indirectly flowing to the owner,
11 operator, agent, or any other person having an interest in the
12 vehicle. In a prosecution under this subdivision, it is a rebuttable
13 presumption that the person had 0.04 percent or more, by weight,
14 of alcohol in his or her blood at the time of driving the vehicle if
15 the person had 0.04 percent or more, by weight, of alcohol in his
16 or her blood at the time of performance of a chemical test within
17 three hours after driving.

18 ~~(e)~~

19 (f) It is unlawful for a person, while under the influence of any
20 drug, to drive a vehicle and concurrently do any act forbidden by
21 law, or neglect any duty imposed by law in driving the vehicle,
22 which act or neglect proximately causes bodily injury to any person
23 other than the driver.

24 ~~(f)~~

25 (g) It is unlawful for a person, while under the combined
26 influence of any alcoholic beverage and drug, to drive a vehicle
27 and concurrently do any act forbidden by law, or neglect any duty
28 imposed by law in driving the vehicle, which act or neglect
29 proximately causes bodily injury to any person other than the
30 driver.

31 SEC. 3. No reimbursement is required by this act pursuant to
32 Section 6 of Article XIII B of the California Constitution because
33 the only costs that may be incurred by a local agency or school
34 district will be incurred because this act creates a new crime or
35 infraction, eliminates a crime or infraction, or changes the penalty
36 for a crime or infraction, within the meaning of Section 17556 of
37 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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